



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/501,406 02/10/00 MONTERO R 00-012283

QM12/1002

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EXAMINER

WEAVER, S

ART UNIT

PAPER NUMBER

3727

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DATE MAILED: 10/02/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/501,406

Applicant(s)
MONTERO

Examiner
Sue A. Weaver

Group Art Unit
3727



☐ Responsive to communication(s) filed on _____

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) of record is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) of record is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Feb 10, 2000 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: The feature "12" does not appear to have been identified. Correction is required.

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. **Correction of Informalities -- 37 CFR 1.85; 1097 O.G. 36**

New formal drawings must be filed with the changes incorporated therein. The art unit number, application number (including series code) and number of drawing sheets should be written on the reverse side of the drawings. Applicant may delay filing of the new drawings until receipt of the "Notice of Allowability" (PTOL-37 or PTO-37). If delayed, the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability" to avoid extension of time fees.

Extensions of time may be obtained under the provisions of 37 CFR 1.136(a) for filing the corrected drawings (but not for payment of the issue fee). The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. **Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

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All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the three month shortened statutory period set in the "Notice of Allowability" (PTO-37). Within that three month period, two weeks should be allowed for review of the new drawings by the Office. If a correction is determined to be unacceptable by the Office, applicant must arrange to have an acceptable correction re-submitted within the original three month period to avoid the necessity of obtaining an extension of time with extension fees. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within the set (or extended) period will result in

ABANDONMENT of the application.

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2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim of record is rejected under 35 U.S.C. 103(a) as being unpatentable over Bayerische in view of either Berlien or Williams et al..

Applicant's inventions appears to be the use of a peel off cover over a bottle with a well-known cap removing recess in the bottom. Bayerische is considered to disclose the glass bottle with the recess in the bottom for removing a twist off cap, but does not disclose the peel off cover. Berlien and Williams et al both teach the use of a cover over a bottom recess. Note that Berlien's bottle recess in one embodiment holds a cork screw while Williams et al covers a cap recess. To have merely provided the bottle of Bayerische with a peel off cover to protect the recess would have been obvious in view of either Berlien or Williams et al.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents show other bottles with cap removing recesses

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186 on Tuesday-Friday.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging Faxing of responses to Office actions directly into the Group at (703) 305-3579. This practice may be

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used for filing papers not requiring a fee. It may also be used to file papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and Art Unit 3727 at the top of your cover sheet.



Sue A. Weaver
Primary Examiner

SW

September 28, 2000